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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,674	12/18/2001	Jonathan E. Schmidt	122085.002.001	3270

7590 07/28/2006
RG and Associates
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EXAMINER

PATEL, ASHOKKUMAR B

ART UNIT PAPER NUMBER

2154

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/023,674	Applicant(s) SCHMIDT ET AL.	
	Examiner Ashok B. Patel	Art Unit 2154	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See continuation sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


JEFFREY PWU
PRIMARY EXAMINER

See continuation sheet.

Response to Arguments

1. Applicant's arguments filed 06/19/2006 have been fully considered but they are not persuasive for the following reasons:

Simmons teaches in col. 4, line 1 through 25, " In this way, the network access system of the present invention overcomes the aforementioned, as well as other, problems associated with the known technique of broadcasting bulletins from remote information servers. First, by distributing bulletins from network access systems, advertisers can always distribute bulletins to users regardless of which remote information servers the users choose to connect to. Second, also for the reason that advertising is being distributed from the network access system rather than the remote information servers, advertisers do not have to determine which remote information servers contain the most popular newsgroups or World Wide Web pages to insure exposure to the targeted audience. Third, the network access system can always identify the users of the network access system with absolute certainty since the users are required to provide verifiable log-in information when initially accessing the network access system. Fourth, advertisers can restrict the distribution of bulletins to only those external computers within the geographical region surrounding the network access system. Fifth, advertisers, by paying advertising fees to the network access system provider, enable the users of external computers to receive free or discounted access to wide area computer networks similar to that realized in other advertising media such as television, radio, and newspaper." Thus, the network access system is viewed as the "redirecting device" and the bulletin server is viewed as the "consolidating and management device."

2. Referring to claim 1,

Simmons teaches a method for communicating real-time to subscribers of an Internet Service Provider (ISP) (Fig. 2), comprising the steps of:

- a. Accessing, by a redirecting device, subscriber upstream web traffic to a destination site requested by the subscriber; (col. 5, line 8-13, "In addition to delivering bulletins with information being relayed by the network access systems, in preferred embodiments of the present invention, the network access systems also determine whether bulletins are to be delivered and which bulletins are to be delivered to the external computers.", and line 30-47)
- b. Identifying, by the redirecting device, the subscriber to provide a unique subscriber identification based on the accessed subscriber upstream traffic (col. 4, line 14-18);
- c. Providing, by the redirecting device, the unique subscriber identifier to a consolidating and management device (col. 5, line 30-47);
- d. Determining, by the consolidating and management device, the subscriber associated with the unique subscriber identification, and if a bulletin message for the subscriber is desired, sending policy information to the redirecting device, wherein the policy information includes at least one of: time of delivery, frequency, triggering activity, an associated web page to be delivered or other content to be delivered (col. 4, line 4-8, col. 3, line 47-67, col. 6, line 15-58, col. 5, line 30-47); and
- e. If bulletin message for the subscriber is not desired, allowing, by the redirecting device, a connection to the destination site to proceed normally (col. 3, line 64-67).
- f. If the bulletin message for the subscriber is desired, examining, by the redirecting device, the accessed upstream traffic to determine if it is possible to send a redirection, wherein the examining occurs without modifying the accessed upstream traffic; (col. 5, line 8-13, "In addition to delivering bulletins with information being relayed by the network access systems, in preferred embodiments of the present invention, the network access systems also determine whether bulletins are to be delivered and which bulletins are to be delivered to the external computers.", and line 30-47) and
- g. Based on the policy information, sending to the subscriber by the redirecting device, the redirection for a different destination site. (col. 5, line 4-8, "The bulletin delivery function operates by sending bulletins along with information being relayed by the network access systems from the remote information servers to the external computers.")